

CHAPTER 23

WATER SOURCE PROTECTION AREAS¹

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10-23-1: **STATUTORY AUTHORITY:** The statutory authority for enacting this chapter is Utah Code Annotated sections 17-27-102 and 17-53-223, as amended. (Ord. 2004-844-O, 3-2-2004)

10-23-2: **SHORT TITLE AND PURPOSE:**

- A. Title: This chapter shall be known as *THE DRINKING WATER SOURCE PROTECTION ORDINANCE*.
- B. Purpose: The purpose of this chapter is to ensure the provision of a safe and sanitary drinking water supply for the county by the establishment of drinking water source protection zones surrounding the wellheads for all wells which are the supply sources for any public water supply agency (PWSA) water system and by the designation and regulation of property uses and conditions which may be maintained within such zones and to meet the requirements

1. See also title 4, chapter 3 of this code.

of a preliminary evaluation report according to the state drinking water source protection rule (R309-600 Utah administrative code).

- C. Conflict: This chapter is designed to supplement, but not replace, other ordinances and regulations governing the use of property within the county, such as other regulations in this title. In case of conflict between this chapter and any other applicable ordinance or regulation, the more restrictive requirement shall prevail.
- D. Degree Of Protection; Limitation Of Liability: The degree of protection afforded by this chapter is considered adequate for regulatory purposes. This chapter does not ensure that public drinking water sources will not be subject to accidental or intentional contamination, nor does it create liability on the part of the county, or an officer or employee thereof, for any damages to the public water supplies from reliance on this chapter, nor any administrative order lawfully made hereunder.
- E. Owner Liability: A notice to cease or an exemption issued under this chapter shall not relieve the owner of the obligation to comply with any other applicable federal, state, regional or local regulations, rules, ordinances or requirements, nor shall said notice or exemption relieve any owner of any liability for violation of such regulations, rules, ordinances or requirements. (Ord. 2004-844-O, 3-2-2004)

10-23-3: **DEFINITIONS:** When used in this chapter, the following words and phrases shall have the meanings given in this section:

BEST MANAGEMENT PRACTICES (BMPs):

A practice or combination of practices that reduces the potential for spills and leaks at a site to occur and enter ground water. "BMPs" shall be construed within the context of this chapter to include, but not be limited to, structural and nonstructural practices, conservation practices, and operation and maintenance procedures identified by the state department of environmental quality and the U.S. environmental protection agency. "BMPs" should be the most effective practicable (including technological, economic and institutional considerations) means of preventing pollution sources from entering ground water.

"BMPs" may include, but not be limited to, those practices outlined in the state department of environmental quality pollution prevention fact sheets.

DESIGN STANDARD:

A standard applied to the design, construction and ongoing operation of various land use activities that imposes specific physical requirements and that is implemented by a potential contamination source to prevent discharges to the ground water. Examples of design standards include, but are not limited to, facilities for segregating wastes for recovery and separating hazardous and nonhazardous wastes to prevent cross contamination; eliminating sources of leaks and spills; physical barriers, such as a berm or dike, which will hold spills or leaks; use of double walled tanks to store chemicals; locating storage and mixing areas away from floor drains, and waste disposal procedures.

LANDFILL:

A disposal site where solid wastes, including putrescible wastes or hazardous wastes, are disposed of on land by placing earth cover thereon.

POLLUTION SOURCE:

Point source discharges of contaminants to ground water or potential discharges of the liquid forms of "extremely hazardous substances" which are stored in containers in excess of "applicable threshold planning quantities" as specified in SARA title III (42 USC 11002). Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, class V underground injection wells, landfills, open dumps, land filling of sludge and septage, manure piles, salt piles, pit privies, and animal feeding operations with more than ten (10) animal units. The following clarify the definition of "pollution source":

A. Animal Feeding Operation: A lot or facility where the following conditions are met: 1) animals have been or will be stabled or confined and fed or maintained for a total of forty five (45) days or more in any twelve (12) month period; and 2) crops, vegetation forage growth, or post harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two (2) or more animal feeding operations under common ownership are considered to be a single feeding operation: 1) if they adjoin each other; 2) if they use a common area; or 3) if they use a common system for the disposal of wastes.

B. Animal Unit: A unit of measurement for any animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over fifty five (55) pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

C. Extremely Hazardous Substances: Those substances which are identified in the section 302(EHS) column of the "Title III List Of Lists - Consolidated List Of Chemicals Subject To Reporting Under SARA Title III", (EPA 560/4-91-011).

**POTENTIAL
CONTAMINATION
SOURCE:**

Any facility or site which employs an activity or procedure which may potentially contaminate ground water as listed on exhibit A of the EPA potential sources of drinking water contamination index. A pollution source is also a potential contamination source.

**SEPTIC TANK/DRAIN
FIELD SYSTEMS:**

A system that is comprised of a septic tank and a drain field which accepts domestic wastewater from buildings or facilities for subsurface treatment and disposal. By their design, "septic

tank/drain field system discharges" cannot be controlled with design standards.

WELLHEAD: The upper terminal of a well, including adapters, ports, seals, valves and other attachments. (Ord. 2004-844-O, 3-2-2004; amd. 2004 Code)

10-23-4: FILING, RECORDING AND NOTICE OF MAPS SHOWING SOURCE PROTECTION ZONES: Each water source protection area covered by this chapter shall be shown on a map which shall include the boundaries of all zones. The PWSA shall pay for and cause a map to be prepared by a licensed civil engineer or a licensed professional geologist, which map shall be filed with the planning office and recorded by the county at the county recorder's office. The map may be revised from time to time. Notice of the filing of the map shall be given to each property owner within the boundaries of the zones by deposit in the United States mail, certified or registered, postage prepaid, addressed to the owner shown on the records of the county recorder, which cost shall be paid by the PWSA. (Ord. 2004-844-O, 3-2-2004)

10-23-5: ESTABLISHMENT OF DRINKING WATER SOURCE PROTECTION ZONES: There are hereby established use districts to be known as zone one and zone two of the drinking water source protection area identified and described as follows:

- A. **Zone One:** Zone one is the area within a one hundred foot (100') radius from the wellhead.
- B. **Zone Two:** Zone two is the area within a two hundred fifty (250) day ground water time of travel to the wellhead, the boundary of the aquifer which supplies water to the ground water source, or the ground water divide, whichever is closer. (Ord. 2004-844-O, 3-2-2004)

10-23-6: PROHIBITED USES: The following uses or conditions shall be and are hereby prohibited within drinking water source protection zones, whether or not such use or condition may otherwise be ordinarily included as a part of a use permitted under section 10-23-7 of this chapter:

- A. Zone One: The location of "potential contamination sources", as defined in section 10-23-3 of this chapter, unless they are controlled with design standards.
- B. Zone Two: The location of "pollution sources", as defined in section 10-23-3 of this chapter, unless their contaminated discharges are controlled with design standards; provided, however, that a person may use or store a pollution source or potential contamination source within zone two under the following conditions:

1. No Reportable Quantities: If the pollution source or potential contamination source is a hazardous substance, the amount of the pollution source or potential contamination source does not exceed the reportable quantity for that substance listed in 40 CFR 302.4, as amended; and

2. Management Plan: The person implements a management plan that incorporates best management practices approved by the PWSA that is designed to ensure that the pollution source and/or potential contamination source will not be spilled or released in a manner that may potentially contaminate ground water. (Ord. 2004-844-O, 3-2-2004)

10-23-7: **SUBSTANCES NOT SUBJECT TO PROVISIONS:** The following substances are not subject to the zone prohibitions and restrictions set forth herein; provided, that these substances are handled, stored and disposed of in a manner that does not result in an unauthorized release or cause contamination of the ground water:

- A. Normal Household Storage: Regulated substances stored at residences that do not exceed ten (10) pounds or five (5) gallons and are used for personal, family or household purposes.
- B. Janitorial Products For Commercial Sites: Products intended for use at a commercial site and solely for office or janitorial purposes. Such products must be stored in total quantities of less than twenty (20) pounds or ten (10) gallons.
- C. Prepackaged Consumer Products: Prepackaged consumer products available through retail sale to individuals for personal, family or household use that are properly stored.
- D. Latex Paint: Water based latex paint.

- E. Fertilizers And Treated Seed: Fertilizers and treated seed, when stored and applied in accordance with manufacturer's instructions, label directions and nationally recognized standards.
- F. Pesticides: Pesticide products and materials intended for use in weed abatement, pest control, erosion control, soil amendment or similar applications, when applied in accordance with manufacturer's instructions, label directions and nationally recognized standards.
- G. Compressed Gases: Compressed gases.
- H. Commercial Products: Substances or mixtures which may pose a hazard but are labeled pursuant to the federal food, drug, and cosmetic act.
- I. Fuel And Lubricant Use: The use of any petroleum product solely as an operational fuel in a vehicle, or as an operational fuel in a landscaping or garden tool or device, or as a lubricant in any such vehicle, tool or device; provided, however, that these spent products shall be properly disposed of in compliance with applicable federal, state and local regulations. (Ord. 2004-844-O, 3-2-2004)

10-23-8: **OVERLY PROTECTIVE MANAGEMENT AREAS AND PROTECTION ZONES:** If protection zones appear to be excessively large, changes to the protection zones may be considered according to the following procedure:

- A. Written Comments For Reconsideration: Submit written comments to the PWSA stating the reasons that the delineated protection zones should be reconsidered.
- B. Investigation; Appeal: If the PWSA concurs, it may conduct a new hydrogeologic investigation to address the issues raised by the entity requesting changes to the delineated protection zones. If the PWSA does not agree to conduct a new investigation, the entity requesting changes may appeal to the county pursuant to the requirements set forth in this title. In the event the county orders a new investigation, it shall be paid for by the entity requesting the changes.
- C. Findings; New Map: Based upon the results of the new investigation, the planning department may make a determination that the new hydrogeologic investigation is or is not protective. In the alternative, the new hydrogeologic investigation may, in the county's discretion, be submitted to the state division of drinking water for its review. If

either the planning department or the division of drinking water finds that the new hydrogeologic investigation is protective, a new map shall be filed showing the smaller protection zones. (Ord. 2004-844-O, 3-2-2004)

10-23-9: **PREEXISTING USES:** Uses or conditions in place prior to July 26, 1993, are not subject to the zone prohibitions and restrictions set forth herein. (Ord. 2004-844-O, 3-2-2004)

10-23-10: **ADMINISTRATION:** The policies and procedures for administration of any source protection zone established under this chapter, including, without limitation, those applicable to nonconforming uses, exceptions, enforcement, penalties and appeals, shall be the same as provided in this title. (Ord. 2004-844-O, 3-2-2004)